

BEFORE THE DEPARTMENT OF JUSTICE
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PROPOSED
ARM 23.16.1822 and 23.16.1823) AMENDMENT
pertaining to an increase in video)
gambling machine permit fees) NO PUBLIC HEARING
) CONTEMPLATED

TO: All Concerned Persons

1. On July 26, 2013, the Montana Department of Justice proposes to amend the above-stated rules.

2. The Montana Department of Justice will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Justice no later than 5:00 p.m. on June 20, 2013, to advise us of the nature of the accommodation that you need. Please contact Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; Montana Relay Service 711; or e-mail rask@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

23.16.1822 PERMIT NOT TRANSFERABLE (1) remains the same.

(2) When, during the first quarter of the permit year, a gambling operation changes ownership and the application for a new gambling operator license has been approved, the permit fee for the machines on the premises is \$25 per machine if the ~~\$220~~ \$240 licensing fee has already been paid for that machine for the permit year.

(3) through (9) remain the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-603, 23-5-611, 23-5-612, 23-5-621, ~~23-5-637~~, MCA

23.16.1823 PRORATION OF PERMIT FEE – RENEWAL (1) The department shall prorate the permit fee for a video gambling machine on a quarterly basis according to the following schedule:

Effective Dates For Permit	Permit Fee
July 1 through June 30	\$220 <u>\$240</u>
October 1 through June 30	\$165 <u>\$180</u>
January 1 through June 30	\$110 <u>\$120</u>
April 1 through June 30	\$55 <u>\$60</u>

(2) through (6) remain the same.

AUTH: 23-5-115, 23-5-621, MCA

IMP: 23-5-602, 23-5-611, 23-5-612, 23-5-621, MCA

RATIONALE AND JUSTIFICATION: These rules are being amended because the 2013 Legislature passed HB141, Section 4 of which becomes effective July 1, 2013, which increases video gambling machine permit fees. In FY 2012, 19,294 video gambling machine permits were issued [16,328 permits first quarter + 1,084 permits second quarter + 827 permits third quarter + 1,055 permits fourth quarter = 19,294]. The change in the permit fee will result in an increase of approximately \$356,365 in the gambling state special revenue account collections for FY 2014 [(16,328 permits x \$20 increase) + (1,084 permits x \$15 increase) + (827 permits x \$10 increase) + (1,055 permits x \$5 increase) = \$356,365]. It is assumed all permitting levels will remain constant after FY 2014.

4. Concerned persons may submit their data, views, or arguments concerning the proposed amendments in writing to: Rick Ask, Administrator, Gambling Control Division, 2550 Prospect Avenue, P.O. Box 201424, Helena, Montana, 59620-1424; telephone (406) 444-1971; fax (406) 444-9157; or e-mail rask@mt.gov, and must be received no later than 5:00 p.m., July 5, 2013.

5. If persons who are directly affected by the proposed amendments wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Rick Ask at the above address no later than 5:00 p.m., July 5, 2013.

6. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 162 persons based on 1621 licensed operators and route operators in Montana (fiscal year 2013).

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 4 above or may be made by completing a request form at any rules hearing held by the department.

8. An electronic copy of this proposal notice is available through the department's web site at [https://doj.mt.gov/agooffice/administrative rules](https://doj.mt.gov/agooffice/administrative%20rules). The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirement of 2-4-302, MCA, does apply and has been fulfilled. The primary bill sponsor was initially contacted on May 16, 2013 by e-mail and U.S. Postal mail.

/s/ Tim Fox
TIM FOX
Attorney General, Department of Justice

/s/ Matt Cochenour
MATT COCHENOUR
Rule Reviewer

Certified to the Secretary of State May 28, 2013.